

MEMORANDUM

TO: Members, Clark Fork Basin Water Management Task Force (Task Force)
FROM: Gerald Mueller
SUBJECT: Summary of the July 6, 2006 Task Force Meeting
DATE: July 10, 2006

Participants

The following people participated in the Task Force meeting:

Task Force Members:

Harvey Hackett	Bitterroot Water Forum
Bill Slack	Flathead Joint Board of Control
Fred Lurie	Blackfoot Challenge
Nate Hall	Avista
Elna Darrow	Flathead Basin Commission
Marc M. Spratt	Flathead Conservation District/Flathead Chamber of Commerce
Holly Franz	PPL Montana, LLC

Ex Officio

Rep. Verdell Jackson	HD 79
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Staff:

Gerald Mueller	Consensus Associates
Mike McLane (DNRC)	Montana Department of Natural Resources and Conservation

Other:

Dr. David Shively	UM Department of Geography
Jack Stults	DNRC Water Resources Division

Meeting Agenda

- June 5, 2006 Meeting Summary
- HJR 3 Update
- Ground Water Conferences
- DNRC Ground Water-Surface Water Working Group Update
- Ground Water Conferences
- Regional Water Quantity Activities
- Preview of EQC Presentation
- DNRC Ground Water-Surface Water Working Group
- Public Comment
- Schedule meeting

June 5, 2006 Meeting Summary

The Task Force made no change to the June 5 meeting summary.

HJR 3 Update

Jack Stults shared a copy of a letter from Confederated Salish and Kootenai Tribal Vice-Chairwoman Carol Langford to Mary Sexton. The letter said in part:

As you know the Tribes take the position that the legal availability of water from

the Hungry Horse Project cannot be determined until the on-and off -Reservation reserved water of the Tribes have been quantified by adjudication or by compact between the Tribes, the United States and the State of Montana. However, as you and Department Legal Counsel Tim Hall both talked about making inquiries of the Bureau of Reclamation with the thought that future water contracts might be dedicated to meeting the Tribes reserved water rights, the Tribes are interested in learning about the Bureau of Reclamation's position on water contracts from the Hungry Horse Reservoir. Consequently, the Tribes agree to participate as observers in any meetings the Department of Natural Resources and Conservation conducts with the Bureau of Reclamation concerning the potential for water contracts from Hungry Horse Reservoir.

With this letter the state may now be willing to begin discussions with the Bureau of Reclamation (BOR). Task Force members indicated willingness for the Task Force to be involved in the discussions, and Mr. Stults stated that Mr. Mueller should be involved in discussions of the next steps.

Ground Water Conferences

Conference Contracts - Mike McLane reported that contracts have been signed with the University of Montana Departments of Geology and Geography, the Montana Bureau of Mines and Geology (MBMG), and Granite Conservation District. These contracts provide for the following:

- Co-convening by the Riverine Center and the Task Force of the technical conference, providing for rooms, audio visual equipment, meals, and speaker fees;
- A presentation by the MBMG at the technical conference describing the current state of knowledge about the Clark Fork River basin's ground water resources.
- A series of maps prepared by MBMG showing the number of wells per section for the Flathead-Lake County, Lolo-Bitterroot, and Upper Clark Fork River Ground Water Characterization areas.
- Co-convening by the UM Department of Geology and the Task Force of the policy conference, providing for rooms, audio visual equipment, meals, and speaker fees;
- Meeting planning and facilitation services for each conference provided by the Task Force facilitator; and
- Preparation of a written summary document after each conference.

Technical Conference Planning - Gerald Mueller reviewed the conference agenda and list of speakers, which is included below in Appendix 1. The Task Force agreed to lengthen the agenda by one-half hour so that it ends at 5:00 p.m. The additional time was added to the 3:00 p.m. panel on Ground Water Management Needs that will discuss what information, tools, and assessment methodologies are needed to manage Clark Fork River basin ground water effectively. This addition would allow two additional panelists: either Bill Uthman or Russ Levens, DNRC hydrologists, and Dr. Jack Stanford, Director of the UM Flathead Lake Biological Station and Bierman Professor of Ecology. Mike McLane will contact Mr. Uthman and Levens and Marc Spratt or Elna Darrow will contact Dr. Stanford.

The Task Force identified the following groups or individuals for invitations to the conference either by email or mail or both:

- Academics (contact Gretchen Rupp with the Montana Water Center for names);
- Engineering firms;
- Basin conservation Districts;
- Basin county commissioners, city managers or mayors, planners, environmental health

- specialists, and sanitarians;
- Well drillers;
- EQC staff; and
- Home builders.

An attempt should be made to arrange for continuing education credits for engineers, sanitarians, and well drillers.

Policy Conference Planning - Gerald Mueller also reviewed the policy conference agenda and list of speakers, which is again included below in Appendix 1. Again the Task Force agreed to extend the agenda to 5:00 p.m. to allow more time for speakers. It agreed that Matt Clifford should be added to the Water Users/Interests Panel to provide an environmental/conservation group perspective. Invitees should include the technical conference list plus the Montana Water Works, the state and regional realtor associations, the USFS, BLM, Northwest Power and Conservation Council, and the Tri-State Implementation Council. An attempt should be made to offer continue continuing legal education credits through the Montana Bar Association.

Regional Water Quantity Activities

Jack Stults, Administrator of the DNRC Water Resources Division, reported on regional water quantity related management activities in the Columbia River Basin, which includes the Clark Fork and Kootenai basins in Montana. Flow of the Columbia River and its major tributaries is regulated and controlled. Management is highly federalized, but also involves the four Pacific Northwest states, twenty-three Indian tribes, and the Canadian federal and provincial governments. The Columbia River hydro electric system produces more electricity than any other river system in the nation. Today, management of the US portion of the Columbia is being driven by court decisions regarding salmon and steelhead stocks listed as threatened and endangered species under the Endangered Species Act. Chinook fish stocks have decreased to two percent of their historic numbers. As a result of the endangered species concerns, the hydroelectric system, and the numerous management entities, the complexity of the Columbia system is higher than that of Montana's other river basins. Today, the Columbia basin faces issues of fish versus traditional river uses (power production, irrigation, transportation, and irrigation) versus future water uses.

Pacific Northwest States

Oregon - Water development in the Columbia currently has a one-to-one mitigation requirement. That is, if a new bucket of water is removed, a bucket must be added.

Idaho

In 2000, Idaho conducted a flow augmentation study that concluded that irrigation does not have a net, quantifiable impact on Columbia River flows, and that velocity rather than volume is the key issue for fish. Velocity is determined by the cross sectional area of the river channel which consists of reservoir ponds on the mainstem of the Columbia except for the mid-Columbia reach. This finding has helped to invigorate the debate over removing the four federal Snake River dams. Idaho is also currently adjudicating the water rights in the northern Idaho including the Snake River basin.

Washington

In 1998, Washington imposed a moratorium on additional water development from the Columbia River. This year, the legislature passed the Columbia River Water Resource

Management Program, one purpose of which is to secure an additional 1 million acre feet of uninterrupted supply from the Columbia River for Washington municipal and agriculture water users. The program creates a \$200 million bonding authority to fund Program projects. New water development is to occur through conservation, development of off-stream storage, an additional 8-9 inches of withdrawal from Lake Roosevelt, and "...any other actions designed to provide access to new water supplies within the Columbia river basin for both instream and out-of-stream uses." Fifty percent of any new water development must be dedicated to instream flows. Montana is concerned that conservation is not defined in the statute. The Washington Department of Ecology is developing rules to implement the program.

Montana

Rather than for any single purpose, Montana has sought to balance the operation of Hungry Horse and Libby reservoirs for threatened and endangered fish species (bull trout and white sturgeon), downstream salmon and steelhead, flood control, power generation, and recreation. Montana developed integrated rule curves that incorporate this balance, which the Bureau of Reclamation (BOR) has labeled VAR Q. In 2003, the Northwest Power and Conservation Council adopted into its fish and wildlife program the VAR Q operational rule curves, but they have not yet been implemented by the BOR. Montana has advocated implementing the integrated rule approach at all Columbia River dams, but Oregon has opposed doing so. In the Missouri and Yellowstone basins, Montana has provided water for future development through the water reservation system. Although the reservation process was started in the upper Clark Fork Basin, it was terminated by statute in favor of a basin closure and the creation of the Upper Clark Fork River Basin Steering Committee and its mandate to prepare and amend a basin water management plan. As a result, no water has been reserved for future use in the Clark Fork basin.

New Regional Water Quantity Organization

In 1994, Idaho, Montana, Oregon, and Washington formed the Columbia Basin Water Managers' Group. This Group was reinvigorated by the four governors in 1998 and through a memorandum of understanding was given the task of coordination among the states and tackling issues on an ad hoc basis. This group meets about every 9 months. Montana is pushing the integrated rule curve/VAR Q approach through this group. Discussions have taken place in the past of creating an interstate compact body to manage basin river flows, but no action has been taken to do so.

Preview of EQC Presentation

Gerald Mueller reviewed the content of the presentation he will give to the Environmental Quality Council Study Subcommittee at 1:30 p.m. on Monday, July 17. The Task Force is required by statute to periodically report to the legislature. The presentation will include introductory material about the Task Force and the Clark Fork Basin Watershed Management Plan, a summary of House Joint Resolution 3 (the Hungry Horse Resolution), discussion of the 05-06 Task Force work plan, a listing of the Hungry Horse negotiation-related activities to date, and an explanation of the ground water conferences.

DNRC Ground Water-Surface Water Working Group

Mike McLane reported on the latest meeting of the Working Group. One participant proposed modifying how hearings on new permits and water right changes are conducted. The proposal involved moving the hearings examiners from DNRC jurisdiction to the courts. Under the new proceeding, DNRC would review a permit application, and any issue would

be subject to mediation. Issues would be taken to a hearing before the hearings examiner would be limited to those that all parties agreed to take to a hearing. Because this proposal was not fully formulated, the Working Group participants asked that a more detailed version be brought back to a future meeting. Also, the Trout Unlimited representative proposed modifying the 35 gpm/10 acre/ft-yr exemption for new wells from the permitting process. TU proposed that the exemption continue to be allowed for minor subdivisions, i.e., those with five or fewer lots, but would not be allowed for subdivisions with more than five lots. Working Group participants will be discussing Work Group proposals with the organizations they represent over the summer.

Public Comment

There was no additional comment.

Next Meeting

The next meeting scheduled for the first Monday in August, August 5, 2006. The agenda will include an HJ 3 implementation update, the ground water conferences, and a discussion of an outline of a possible policy paper about the status of the first-in-time, first-in right water right allocation and management system.

Appendix 1 Speaker List for the Ground Water Conferences

Technical Conference Speakers (Mike McLane or Gerald Mueller to invite)

Ground Water Modeling Tools

- Dr. Marios A. Sophocleous, Senior Scientist, Geohydrology, Kansas Geological Survey.
- Rod Caldwell with USGS Helena Office

Luncheon

- Mary Sexton or Tim Hall (Smith River Decision)

Assessment Methodologies

- Snake Aquifer Donna Cosgrove with the Idaho Water Resource Research Institute, University of Idaho (confirmed).
- John Metesh, Montana Bureau of Mines and Geology.

Ground Water Management Needs

- Marc Spratt, RLK Hydro.
- Steve Kilbreath, DEQ Subdivision Review Section.
- Tom Patton, MBMG (confirmed)

Policy Conference (Gerald Mueller to invite)

Clark Fork Basin Economic and Demographic Trends

- Dr. Larry Swanson, Center for the Rocky Mountain West (confirmed)

Population and Economic Growth and Water Use

- Professor Robert Glennon (confirmed)

Luncheon

- Governor Schweitzer or Hal Harper (water situation in the Clark Fork basin) (invited)

Local Government Panel

- Mayor of Polson
- Mayor of Thomson Falls
- Tribal Council Person) (invited)
- Ravalli County Commissioner) (invited)
- Deer Lodge County Commissioner) (invited)

Local Government Planner Panel

- Jon Sesso, Butte-Silver Bow planner (confirmed)
- Whitefish planner) (invited)
- Tribal planner
- Dick Hoehne, City of Philipsburg) (invited)

Water Users/Interest Panel

- Harry Poett (Blackfoot drought plan)
- Irrigation Districts (Harvey or Bill)
- Realtor representative
- Arvid Hiller